

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROGELIO MAY RUIZ,

Plaintiff,

v.

D. WOODFILL, et al.,

Defendants.

No. 2:20-cv-2078 TLN DB P

ORDER

Plaintiff, a state prisoner proceeding pro se with a civil rights action, has requested appointment of counsel. Plaintiff states that he has difficulty with the English language and has no experience with the law.

The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the district court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

The test for exceptional circumstances requires the court to evaluate the plaintiff's likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances common to most prisoners, such as lack of legal education and limited law library access, do not

1 establish exceptional circumstances that would warrant a request for voluntary assistance of  
2 counsel. In the present case, the court does not find the required exceptional circumstances at this  
3 time. This court recommended plaintiff's motion to proceed in forma pauperis be denied because  
4 plaintiff has accrued three strikes under the in forma pauperis statute. Accordingly, until the  
5 motion to proceed in forma pauperis is resolved, any appointment of counsel would be premature.

6 For these reasons, IT IS HEREBY ORDERED that plaintiff's motion for the appointment  
7 of counsel (ECF No. 11) is denied.

8 Dated: January 4, 2021

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12 DEBORAH BARNES  
13 UNITED STATES MAGISTRATE JUDGE  
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